

ZONING BOARD OF APPEALS MEETING MINUTES

Thursday, February 25, 2021

(Posted in accordance with the provisions of MGL Ch. 39, Sec. 23A, as amended)

7:00 p.m.

City Hall Auditorium

62 Friend Street

Amesbury, MA 01913

Attendance: Sharon McDermot (Chair), David Haraske, Michael McCarthy, Matt Vincent

Absent: Donna Collins

Also in attendance: Recording Secretary Janice Valverde

Chairwoman Sharon McDermot calls the meeting to order at 7:00 p.m.

Chair announces that the agenda includes the **minutes of the January 28, 2021 meeting** and one **Public Hearing**.

Jennifer Solomon is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaw, Section VI, to build a 1 1/2 story, two-car garage. The property is located at **374 Main Street**, Amesbury, MA in an R20 zoning district, (map 89, lot 27) according to the Assessors database.

Chair McDermot announces that there are only four members of the ZBA present, and that is a quorum, however it takes four members.

MINUTES

Chair McDermot asks if there are any questions, comments, or concerns about the minutes of January 28. As there are none, she asks for a motion to approve the minutes.

Dave Haraske makes the motion to approve the minutes.

Matt Vincent seconds the motion.

The minutes are approved by unanimous vote.

PUBLIC HEARING

McDermot reads into the record: Jennifer Solomon is seeking a **SPECIAL PERMIT/FINDING** under the Amesbury Zoning Bylaw, Section VI, to build a 1 1/2 story, two-car garage. The

property is located at 374 Main Street, Amesbury, MA in an R20 zoning district, (map 89, lot 27) according to the Assessors database.

Chair McDermot invites Jennifer Solomon to the podium to present her request for a special permit/finding.

Solomon says she lives at 374 Main Street. She received permission in January from the Amesbury Historical Commission to tear down her old garage. She wants to replace an existing garage with a new 1 ½ story two-story garage and create a “playroom” for her two teenage boys on the second story. “No bathroom. No extra plumbing.”

Matt Vincent asks about how it will be finished, and if there is heat and if the walls will be insulated.

Solomon replies that there is electricity in the existing building. Prior owners operated potter’s wheels in the space.

Vincent asks if the walls will be insulated. She replies yes.

Solomon says wants to install a Mitsubishi Mini Split HVAC unit.

McDermot says that the board has some questions about the second floor. She said ZBA does not typically approve living space on the second floor of a garage. “It sounds like you’re going to be hearting and insulating and adding electricity.”

Solomon replies that it will not actually be living space, since there will be no plumbing, and the electricity is existing.

McDermot asks if there are any other questions from the board.

Mike McCarthy asks how you would get to the second floor.

Solomon says there would be a staircase to the second floor. She says plans call for the garage to look as it already looks-- but it would have a staircase in the rear to access the second story, and it would be “a little bit bigger and with larger doors to be able to fit my larger vehicle.” I have an SUV and it does not fit in the current garage.

McDermot asks about the height of the second story.

Solomon says, “I think it’s 8 feet.” She was told (by garage designer/contractor) that it would be 22 feet tall in total, and the existing is 15 feet high, so it would be 7 feet taller.

McDermot asks again if there are questions or comments from the board.

Haraske asks about who makes final determination on use of the structure as living space. Would it be finally determined when the building permit is pulled?

Vincent and **McDermot** say it is up to the ZBA to determine that **before** the permit is pulled. The permit deals with how it will be built, but not the final use purpose. They check Section 6 E of the by-laws. Vincent asks again about the height.

Solomon says the new building would be a little bit higher and a little bit “more into my back yard.” I was considering getting a permit to add a bathroom, but I really don’t want it for any use

other than for my 11 and 13-year-old boys to be able to have a place where they can stand up and play ping pong. Their 300-year-old house has low ceiling, and her boys are already quite tall. The space will not be used for sleeping. The house has plenty of room.

Solomon described the current condition of the garage. There are flying squirrels in the garage that fly at her when she enters the garage. "I literally tried everything to salvage this garage." But it is not salvageable. It is dangerous. It needs to come down. She said her neighbor, who accompanied her to the meeting, boards up the garage windows for safety.

McDermot says the by-laws in R20 zoning district restrict the dimension of a garage to 24' X 24', and Solomon's plans call for a 28' X 24' structure, and that it would also exceed the height restrictions.

Solomon says she is curious about a new garage four doors down from her property. She says there is a new garage that looks to be about 50' X 50'.

McDermot says unless that property owner came before the board, the board would not know about it. She says that since Solomon's lot is nonconforming, that is why she must come before the board. McDermot says the board has no knowledge of the other situation.

Vincent says he understands what Solomon wants to do, but the by-laws are clear concerning dimension and height, and that the relevant section is even quoted in Solomon's application. He cites Section 6 E of the by-laws stating that a garage in R districts shall not exceed 24' X 24' or 15" in height.

Solomon says she sent the plans and application to Denis Nadeau and spoke with him to review them. She says he told her he didn't think it would be a problem. She said he did not mention a height restriction. She says she tried to go through all the proper channels to find out what size garage she could build in the zone. She says she might have submitted something different otherwise. She said she is confused if he mentioned anything about the height. . . and I went through the whole thing with him."

McDermot says that Nadeau is not present, and he has retired. However, the dimensions and height restrictions are right in the regulations.

Vincent suggests that Solomon's hearing be continued, that McDermot contact Nadeau, and that Nadeau may have some additional information that applies which the board is not aware of.

Haraske agrees that would be fair. Only Nadeau can clarify it, he says. There may be some relief or some reason that he believed it is ok for it to be larger.

Solomon said she believes it is because her property is set back so far from the road and it would not be exceeding any of the original setbacks "or going against anything." She thinks that is the reason Nadeau said it would be ok. Her property is set back at least 100 feet from the road and she would only be extending the structure a few feet into her back yard. She said Nadeau did not mention a height restriction to her.

McDermot says the board understands what Solomon is trying to do. She tells Solomon what she can do is request a continuation of her hearing without prejudice and with no additional fees.

McDermot says she is willing to contact Nadeau and find out what “his take on the case is.” But it is pretty clear in the zoning.

Solomon asked if the reason she should ask for a continuance is because of the proposed height.

McDermot adds, “and size.”

Vincent clarifies that he doesn’t think at this time any of the board can vote in favor of the application. “I am not speaking for everyone, but within the four corners of the regulations, I don’t think any of us think we can provide a variance or special permit for.” It would be a deviation from that regulation.

Vincent says Nadeau may have a different view that the can educate us on. Right now if you put it to us, since you need all four of us, I suspect you are not going to get all four of us.

Solomon asks according to the board, “What can I do?”

McDermot says, “24 by 24 and 15 feet high.”

Solomon says, “so no second story at all?”

McDermot says, yes, second floor could only be storage.

Vincent says there may be some logic or reasoning based on the age of the house or garage that Denis was thinking of that none of us are thinking of. But as it stands, we would have to deny it.

There is an appeal process, but you might not want to go through that.

McDermot says Solomon can come back at the next meeting and it will be settled. Right now you would probably not be successful with vote.

Solomon signed a note requesting a continuation of the hearing until the March 25 ZBA meeting.

McDermot tells the applicant and the abutter that the continuation at the meeting next month will not be publicized so they might want to check in with the clerk, since the abutters won’t be notified. She confirms that the next meeting will be on March 25.

McDermot asks if there is any other business. There is none.

McDermot asks if there is a motion to adjourn.

Haraske makes the motion to adjourn.

Vincent seconds the motion.

The vote to adjourn is unanimous.

The meeting is adjourned at 7:21 p.m.